

Supreme Court, U.S.
FILED

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~~OFFICE OF THE CLERK~~

IN THE
SUPREME COURT OF THE UNITED STATES

Melvin Holst

Petitioner

v

The City of Portland, Oregon;
The 4th Circuit Court of the State of Oregon

Respondents

On Petition For Writ of Certiorari
To The U.S. Court of Appeals For the Ninth Circuit

PETITION FOR WRIT OF CERTIORARI

Melvin Holst, Petitioner Pro se
215 SW 14th St
Gresham, Oregon 97080
Tel: (503) 661-1556

QUESTIONS PRESENTED FOR REVIEW

1. Whether the U.S. Federal Court System can justly sustain a conviction by a lower state court when that lower state court had knowingly accepted into evidence for conviction during trial; evidence that unquestionably had been altered and/or was precluded from being seen by Petitioner for his defense before trial? And for which such tampering is a Class A Misdemeanor under Oregon law?

2. Whether a U.S. Federal Court does or does not have a responsibility to mandate a State Court or municipality to "cease and desist" when the evidence those two state entities used to gain convictions; clearly were either altered or had been denied to drivers before trial?

3. And the extent to which state authorities should or should NOT be mandated to return to drivers who qualify; the millions of fine dollars that were unconstitutionally extracted from them in Oregon's 4th Circuit Court? Or were paid by drivers when they had been denied evidence upon which they could otherwise have defended themselves in court if they could have seen the evidence upon which they were charged before their fine payments were due? See OREGONIAN newspaper article at Appendix K.

PARTIES TO THIS PROCEEDING:

**1. UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Chief Judge Schroeder
95 Seventh Street
P.O. Box 193939
San Francisco, CA 94119-3939
Tel (415) 556 9730

**2. UNITES STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

Office of the Clerk
1000 SW Third Avenue
Portland, Oregon 97204-2902
Tel (503) 326 8000

**3. JUDY C. LUCAS, Assistant Attorney General
Attorney for Defendants-Appellees**

Circuit Court of the State of Oregon for
Multnomah County and Mr. Dale Koch,
Presiding Judge, 4th Circuit
Oregon Department of Justice
1162 Court Street, NE
Salem, Oregon 97301-4096
Tel (503) 378 4402

4. THE CITY OF PORTLAND OREGON

Mr. Harry Auerbach, OSB # 82183
Chief Deputy City Attorney
Attorney for Defendants-Appellees the
City of Portland and Vera Katz, Mayor
1221 SW Fourth Avenue, Room 430
Portland, Oregon 97204
Tel (503) 823 4047

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TABLE OF AUTHORITIES

1. RULE 26 of the United States Rules for Civil Procedure (Appendix E)
 2. U.S. Constitutional Amendments V and XIV (Appendix F.)
 3. Oregon Statute: 162.295, Tampering (Appendix J)
 4. Oregon Statute: 183.482, Retrials (Appendix M)
 5. Oregon Statute: 810.250, Sign Legibility (Appendix N.)
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CITATIONS AND ORDERS BY COURTS

Appendix A Ruling of Oregon's 4th Circuit Court
Appendix B Judgment of U.S. District Court, OR
Appendix C Memo US Court of Appeals 9th Ckt
Appendix D. Order US Court of Appeals, 9th Ckt

BASIS FOR JURISDICTION

Petitioner pleads for this Writ authority based upon an unsigned ORDER from the United States Court of Appeals for the Ninth Circuit which states that No further filings will be accepted in this closed appeal (Appendix D.) And, such authority is granted by RULE 13 of the United States Supreme Court

That United States Court of Appeals entered it's ORDER on December 14, 2005

Petitioner Holst is a Native Born U.S. citizen with residence in Gresham, Oregon

TEXT OF THIS PETITION

1. GENERAL. I, Petitioner Holst CANNOT Accept the U.S. Court of Appeals arguments within their Memorandum at Appendix C which assert that my claims were properly dismissed because quote: a) "I did not identify any underlying constitutional violation. And, b) because Portland's photo-radar procedures comport with Oregon law." Unquote. Please understand, Your Honors, that my federal lawsuit of 9-29-03 specifically DID reflect the underlying causes of my Due Process Complaint (Appendix G.) And Portland procedures unquestionably do NOT comport with either Oregon law or the Federal laws on DISCLOSURE and DUE PROCESS (Appendix E.) And such unquestionable violations are the very essence of what this Petition is all about. For specific details, see Paragraphs 2 through 4, directly below. These are:

2. Reference Certiorari Question #1

a. First, from the cropped photo on my Violation Notice, I had absolutely NO IDEA where my vehicle was located on SE WOODSTOCK when I was "snapped." And, not knowing that information, I had no evidence upon which to base a defense. Moreover, I falsely assumed that the photo on my Violation Notice was the one and only Photo the Police had taken. So when 3 photos were shown in court I was perplexed. But most importantly, it did NOT "dawn" on me until after trial that the photo on my Violation Notice did NOT show the Floor Store background building that was on the three (3) photos shown in court. So with those recollections of what was shown in court, I went back to area of the alleged infraction and found that the 25MPH sign in question sits just across street from the Blue Floor store of Appendix I. And that it locates on the "Western back-side" of SE 57th Street where it is readily

blocked from view by vehicles on SE 57th street awaiting traffic to pass. Whereas if it had been placed on the "Eastern front side" of SE 57th street, it could NOT be blocked from view by those type vehicles. Petitioner then concluded that the City of Portland had illegally been cropping the photos on their Violation Notices such as to keep drivers from ascertaining the relationship of their vehicles to the sign when "snapped." And 2) without knowing those time-distance factors, drivers have no basis upon which to develop a viable defense (Appendix K.) And 3,) it also denied drivers the right to ascertain that those not seeing the sign have only 2-4 seconds in which to respond rather than the 14-18 seconds that are normal for other Portland intersections. And that drivers with sign views so blocked shall not be convicted under Oregon law (Appendix N.)

b. Petitioner's Due Process right to see the True Photo before trial had been specifically denied to him as is expressed directly within the Speed Law Violation Notice, itself (Appendix H.) I.e., Petitioner was the actual driver of the vehicle involved. Hence before trial, he was specifically precluded from seeing the True Photo that had been taken. And that written denial was further confirmed by the person at Tel Nr (503) 221-0415 who strongly reiterated that bar when Petitioner called and requested authority to see the photo and their radar unit. And, to especially talk to the police person involved.

c. That True Photo also was not reviewable by Petitioner for his Appeal until after some 3-4- months had transpired in haggling & being threatened by Portland Police. And, when that photo was finally obtained from them, the three (3) photos shown in court had become just two. I.e., one had "mystically disappeared." And Portland Police could not explain

what had happened to the third photo. I.e., had it "mysteriously disappeared" on purpose, perhaps, to forever obliterate damaging evidence, such as a different auto speed on the missing photo than is reflected on the photo of Appendix I?

d. And, Petitioner's Due Process right to see and talk to the City of Portland policeman involved as provided by the Federal Rule 26 Authority at Appendix E also was flatly denied to Petitioner during the above referenced telephone call.

e. And Petitioner's Due Process right to "inspect" the Photo Radar device also was specifically denied to Petitioner during the conversation cited in sub-paragraph 2b, above. Petitioner has radar experience and wished to see if the read-out dials could be intentionally misset with a "bias" so as to give readings on the photos that were false.

f. Moreover, the City of Portland's cash offering of \$5,000 to me, Plaintiff HOLST, if I would drop my Law suit against them back o/a April/May, 2004, surely could not help but have one conclude that the City's legal staff is fully convinced that it and 4th Circuit in Portland are unquestionably GUILTY of the unconstitutional practices cited above. So their procedures of September 2002 did NOT comport with either State or Federal Law as contrarily suggested within the U.S. Appeals Court memo at Appendix C.

g In short, Respondent leaders, Mayor Katz; and Presiding Judge, Koch; each just had to have known of those unconstitutional practices several years before this case ever came to court. And they should have some form of meaningful punishment imposed upon them. REASONS: 1) They "smear" the concept of "Honest Government" and 2) They rain havoc upon many Portland drivers who were Not Guilty of the driving offenses of which they were

charged. So, if those two leaders cannot be held accountable for this travesty on justice, then who can?

3. Reference Certiorari Question #2: I, Petitioner Holst, have for several years offered concrete and irrefutable evidence to U.S. Courts that the City of Portland, Oregon has been using Notices of Speed Law Violation that for many years have unquestionably denied evidence to drivers and, thus are undeniably unconstitutional. AND the 4th Circuit Court for Multnomah County in Oregon has been allowing those unconstitutional denials of evidence to be used as a lever for enhancing convictions and increasing revenues. As such, then why can NOT the two U. S. Courts through which Petitioner's Complaint was made, be held accountable? And, to have the revenues they so unconstitutionally collected; returned to the drivers who would qualify?

3. Reference Certiorari Question #3: The Question speaks for itself. No amplification required.

CONCLUSIONS:

1. The issues in this case have been exhausted. And they are not known to be procedurally barred. And the Petition is timely

2. Thus, this Petition for a Writ of Certiorari has been filed because The United States Court of Appeals for the Ninth Circuit has unjustly denied my Appeal and my subsequent Petition for Panel Re-hearing. And their reasons are erred. And they did not uphold our U.S. laws for protecting we citizen's Civil Rights. And it is being done during the 90 day period within which Petitioner has authority to seek certiorari in the United States Supreme Court.

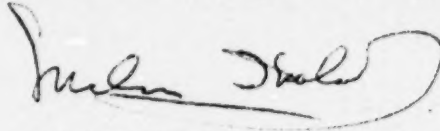
3. Moreover, the conviction under which Petitioner seeks relief, has been unconstitutionally imposed. And it should be either declared void or allowed for Re-trial as elsewhere suggested herein.

4. And something authoritative must be done to return to drivers who wish, the Millions of U.S. dollars in fine monies they were collectively caused to pay because both respondents, collectively, did not allow those drivers their "due process" Civil Rights for defending themselves.

THEREFORE, PETITIONER MOVES THIS MOST HONORABLE COURT TO GRANT THE FOLLOWING RELIEF

1. Accept jurisdiction over this case.
2. Find that Petitioner was denied his due Process rights under the U.S. constitution and, thus should be allowed to either have a re-trial (Appendix M;) or have his case thrown out and his clean driving record of some 50+ years restored. And, refund all "fine, court processing fees and increased Auto insurance rates" that fell out of the erred conviction. In Petitioner's case, the increased auto insurance premium alone has become \$964 in just 3 years.
3. Cause the City of Portland, Oregon, to immediately amend it's Photo Radar Traffic Violation Notices such that they become in full compliance with constitutional law.
4. Cause the appropriate state courts to "Cease and Desist" in their unconstitutional convictions of drivers who have been denied their civil right to due process.
5. Issue whatever instructions are necessary to impose some form of meaningful punishment upon now retired Mayor Katz (City of Portland;) and Presiding Judge Koch (4th Circuit for Multnomah County in Oregon,) such that they will have to think hard and long before they authorize "their citizens" to be tried without being afforded unrestricted access to the full scope of evidence that is germane before trial. Yes, U.S. Dollar Revenue most probably was the underlying cause of those two leader's transgressions. But those two (2) unscrupulous acts cast a very "black eye" upon the authorities of government. Hence those two (2) should be caused to appropriately "pay" for the travails (fines, time expenditures, added insurance premiums, etc.) they have

imposed upon the thousands of drivers who were denied their full scope of civil rights after having been "snapped" while traveling on Portland streets.

A handwritten signature in black ink, appearing to read "Melvin Holst", with a large, sweeping flourish at the end.

Melvin Holst, Petitioner pro se
215 SW 14th St

Gresham, Oregon 97080

Tel (503) 661-1556

Email: MIMSOBjoan@AOL.com

APPENDIX A

IN THE CIRCUIT COURT OF THE STATE OF
OREGON COUNTY OF MULTNOMAH (Traffic
Division) Case No 03-1330-ST

STATE OF OREGON, Plaintiff)

Vs MELVIN HOLST, Defendant)

Traffic Violation Hearing of Melvin Holst 1-06-03

Transcribed by: Iva Osman Tel (503) 643 8582

Excerpts from the transcript of Petitioner's Traffic
Case with Oregon 4th Circuit Court Judge Harold J.
Blank, on 1-06-03.

Portland, OR Risk Management Case # G2003-0644-
01 MW

Police Officer Frolov: I would like to offer the
photos as evidence of the violation.

Judge Blank: Go ahead. Take a look at the pictures.

Petitioner: There were trees there. And, there also
were vehicles along the side of the road. I didn't see
the sign until I was right in the 57th Street

Intersection. I don't think it is fair to get a ticket in
that short distance.

Judge Blank: (Verbatim) "ALL RIGHT. THE
STANDARD OF PROOF IS IN THE
PREPONDERANCE OF EVIDENCE AND IT
MEANS THE GREATER WEIGHT AND YEAH,
IN MY VIEW I'M SATISFIED THAT THE PRE-
PONDERANCE OF THE EVIDENCE - - THE
VIOLATION OCCURRED. ALRIGHT. FINE OF
\$55.00."

Unquote.

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

Melvin Holst, Plaintiff) CV-03-1330-ST
v.)

The City of Portland, OR, Vera Katz)

JUDGMENT

Mayor; and The Circuit Court of the)

State of Oregon for Multnomah)

County, Mr. Dale Koch, Presiding)

Judge, 4th Circuit, Defendants)

STEWART, Magistrate Judge

“Based on the record, IT IS ORDERED AND
ADJUDGED

that Plaintiff take nothing and this action is
DISMISSED”

Dated this 14th day of May, 2004.

Signed: Janice M. Stewart

United States Magistrate Judge

OPINION and ORDER

Date: May 14, 2004

APPENDIX C

UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

Melvin Holst, Plaintiff-Appellant) No
04-35496

v.)
City of Portland; Vera Katz, Mayor;) DC CV-03-
01330-JMS

4th Circuit Court of OR, Dale Koch)
Presiding Judge Defendants-Appellees)
MEMORANDUM*

Appeal from the U.S District Court for the District of
Oregon

Janice M. Stewart, Magistrate Judge, Presiding**

Submitted October 11, 2005***

Before: T.G NELSON, TALLMAN & BEA, Circuit
Judges

- Not appropriate for publication ** Parties consent
to

proceed before a Magistrate ***Case suitable for
decision w/o oral argument. Verbatim Quote: "To
the extent Holst seeks prospective relief, the district
court also properly dismissed his claims because
Holst did not identify any underlying constitutional
violation. See Crumpton v. Gates, 947 F.2d 1418,
1420 (9th Cir. 1991) (Section 1983 claim requires
violation of federally protected right.) Portland's
photo-radar procedures comport with Oregon law,
which guarantees a hearing, provides a statutory
defense when traffic control devices are improperly
installed, gives notice to violators that a police officer
can testify and allows for discovery of evidence. See
See Lasar v. Ford Motor Co, 399F.3d 1101, 1110 (9th
Cir. 2005) Civil sanctions require only adequate
notice and an opportunity to be heard). Holst's
remaining contentions also lack merit. AFFIRMED"

Unquote. NOTE: While this document is NOT signed, it bears a stamp under date of Oct 19, 2005, as follows: Cathy A. Catherson, Clerk

U.S. Court of Appeals

PETITIONER Repeats that the court's assertions about my not having cited any underlying causes for my due process complaint are factually in error.

REASON: I specifically DID cite such Federal authority in my Base Lawsuit at Appendix G.

Moreover, the statement that Portland's photo-radar procedures comport with Oregon law also are most factually erred. In fact, they are the very subject and cause of this Petition for a Writ of Certiorari. Please see Petitioner's key rebuttal in Para 1 of the PETITION TEXT on Page 1 of this Writ. And all of Appendix G with emphasis on Page G-2 .

APPENDIX D

UNITED STATES COURT OF APPEALS FOR
THE NINTH CIRCUIT

Melvin Holst, Plaintiff-Appellant) No. 04-35496

v

)DC # CV-03-01330-JMS

City of Portland, et al.,

) Oregon (Portland)

Defendants-Appellees

) ORDER

Before: T.G. NELSON, TALLMAN & BEA,
Circuit Judges,

The panel has voted to deny appellant's petition for panel rehearing. The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to rehear the matter en banc. See Fed.R. App.P.35.

The petition for panel rehearing and the petition for rehearing en banc are denied. And no further filings will be accepted in this closed appeal.

NOTE: The ORDER was not signed, hence no signature block can be affixed hereon.

APPENDIX E
RULE 26 OF THE FRCP (DUTY OF
DISCLOSURE)

(A) Required Disclosures; Methods to Discover
Additional Matter.

(1) Initial Disclosures. Except to the extent
Otherwise stipulated or directed by order or local
rule, a party shall, without awaiting a discovery
request, provide to other parties:

(A) The name and, if known, the address and
telephone number of each individual likely to have
discoverable information relevant to disputed facts
alleged with particularity in the pleadings, identifying
the subjects of the information.

(B) A copy of or a description by category
and location of, all documents, data compilations,
and tangible things in the possession, custody, or
control of the party that are relevant to disputed facts
alleged with particularity in the pleadings;

NOTE: The remainder of this paragraph and
RULE 26 are not included because they are NOT
directly germane.

APPENDIX F

AMENDMENT V, U.S. CONSTITUTION

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury except in cases arising in the land or naval forces or in the militia, when in actual service in time of War or public danger, nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

AMENDMENT XIV, U.S. CONSTITUTION

1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. NOTE: The remaining 3 paragraphs of this Amendment are not included because they are not considered germane.

APPENDIX G

Excerpts from Plaintiff's Base Lawsuit Filed Thru the
U.S. District Court for District of Oregon on 9-29-03

Face Page: Melvin (NMI) Holst
215 SW 14th St.,
Gresham, Oregon 97080
Tel (503) 661-1556

Melvin (NMI) Holst, Plaintiff CV"-3 1330 ST

Vs

- 1) The City of Portland, Oregon, Vera Katz, Mayor
- 2) The Circuit Court of the State of Oregon For
Multnomah County Mr Dale Koch, Presiding Judge,
4th Circuit

COMPLAINT

Denial of Civil Rights for Due Process under 5th
Amendment of the U.S. Constitution. See TAB A-1
The requests of this complaint appear at TAB A-2

Dated Sep 29, 2003 Signed Melvin Holst, Plaintiff

APPENDIX G (Continued) Gresham, Oregon
from Plaintiff's Base Lawsuit) September 23, 2003
Excerpt Quote: Para VI. Plaintiff Holst's Complaint
and Cause of Action. A denial of my Civil Rights for
"Due Process" as provided by the 5th Amendment of
the U.S. Constitution. The details of my complaint
appear directly below. And the requests of my
complaint appear at TAB A-2.

a. In the DISCOVERY phase of a Speed
Of a Speed Law Violation Trial for which Plaintiff
Holst was subsequently found guilty (37MPH
entering a 25MPH Zone) the city of Portland did the
following in violation of several Oregon Statutes and
U.S. CIVIL PROCEDURE RULE 26 that is attached
last under as TAB C-13.

- (1) Withheld evidence (TAB C-3)
- (2) Altered evidence (TABS C-3 and

C-4)

(3) Denied access to evidence and
potential witnesses (TAB C-3)

(4) Did NOT reveal that a police
official would testify against me at my trial (TAB
C-3.)

b. During the trial at sub-paragraph a, above,
the Traffic Judge involved:

(1) Failed to honor Oregon Revised
Statute 810.250 (TAB C-6) that exonerates citizens
for a speed law violation if they, for good reason, did
not/could not see the applicable speed regulating
sign.

APPENDIX H
NOTICE OF SPEED LAW VIOLATION
DOCUMENT

City of Port- City of Vera Katz, Mayor
land Seal PORTLAND, OREGON Mark Kroeker,
Police

Bureau of Police 1319 SE MLK Blvd
Notice of Speed Law Violation Portland, 97214-3499
RESPONSE REQUIRED

Sep 10, 2002 163065
Melvin Holst
215 SW 14th ST
Gresham, Oregon 97080

Dear
Melvin
Holst:
In an
effort to
improve
traffic
safety
and
com-
munity-



ity, the Portland Police Bureau's Traffic Division has implemented a photo radar detection system within the streets and roadways of the city. The system combines a high speed camera and radar, to record the violator, vehicle and surroundings on film. It also records the observed speed, date, time and location of the violation. A vehicle registered in your name was noted to be in violation of Oregon's speed laws. Above is a digital reproduction of a color photograph taken of your vehicle. Details of the violation appear on the citation enclosed with this letter. A citation has also been filed with the Multnomah

Circuit Court. If you were the driver of the vehicle please read the back of the citation, which describes the options you have for addressing the violation. If you were not driving the vehicle at the time of the violation, you may do one of the following: 1. Schedule an appointment with the Portland Police Bureau to establish that you were not the driver of the vehicle. To schedule an appointment to view the photo, call toll free 503-221-0415 (outside the Portland and Beaverton Metropolitan areas call 1-800-799-7082) between the hours of 9:00 AM and 5:00 PM, Monday through Friday. You will need to bring your driver's license or other photo identification to the appointment. If you were not the driver at the time the offense occurred, proceed to step 2. Fill out the enclosed Certificate of Innocence. Using the enclosed envelope, send the Certificate and a legible photocopy of your driver's license to Circuit Court, P.O. Box 114, Portland, OR 97207 by Oct 14, 2002 to report that you were not the driver of the vehicle at the time of the violation. If you were not the driver at the time the offense occurred, the citation against you will be dismissed. If you do not respond to this citation, a judgment of conviction for the traffic violation may be entered against you and ultimately your drivers license may be suspended. I urge you to take care of this matter as soon as possible. Help us make Oregon's neighborhoods and school zones safe for everyone. Respectfully, s/ Mike Garvey, Traffic Division, Portland Police Bureau Manager, Photo Radar Program. Please note: If your vehicle was reported stolen on or before the violation time indicated above please call 503-823-2226 immediately. You must still complete a Certificate of Innocence and mail it, along with a photocopy of your drivers license, to the address listed.

APPENDIX I

Copy of Actual Police Photo taken of the Alleged
Infraction:



NOTE: This true photo includes the background info that had been unlawfully "cropped" from the altered photo at Appendix H. Evidence, thus, upon which a driver could have established the location of the 25MPH sign involved, and it's frequent obstruction by drivers on SE 57th Street awaiting traffic to pass; had absolutely no way of ascertaining that they had less than 2-4 seconds in which to reduce speed rather than the 14-18 seconds that are standard for other intersections

APPENDIX J

ORS 162.295 Tampering with Physical Evidence

(1) A person commits the crime of tampering with physical evidence if with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, the person:

(a) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or

(b) Knowingly makes, produces or offers any false physical evidence: or

(c) Prevents the production of physical evidence by an act of force, intimidation or deception against a person.

(2) Tampering with physical evidence is a Class A misdemeanor. (1971 c.743 204)

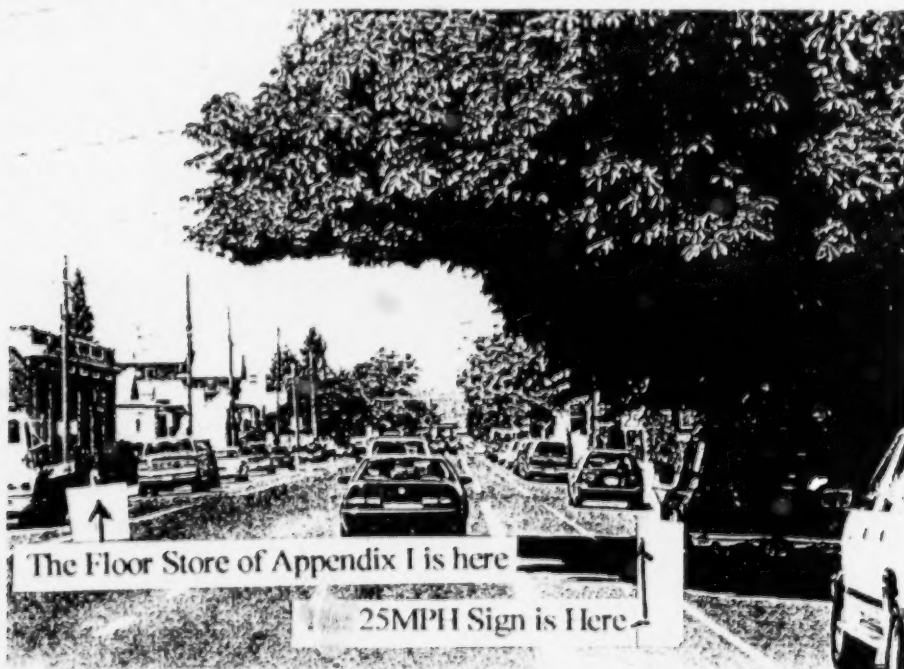
APPENDIX K

OREGONIAN NEWSPAPER ARTICLE of 8-03-03

NOTE: This article has been greatly shortened for brevity's sake. Part I, quote: "Portland Police are writing more tickets, but it's costing the bureau money and creating new traffic jams inside the courthouse. Commander Garvey says his department sent out an average of 3,000 tickets a month in the 1st half of this year compared with 770 a month last year." Also, "While traffic tickets are bringing in millions of dollars to state, county and city coffers, the Portland Police Bureau gets the smallest cut and allegedly lost more than \$470,000 last year to run the program. Of a \$109 ticket, the first \$35 goes to Oregon's General Fund. Multnomah County gets between \$14 and \$20, and \$1 goes to county jails. The remainder goes to courts and the City of Portland." Unquote.

APPENDIX L

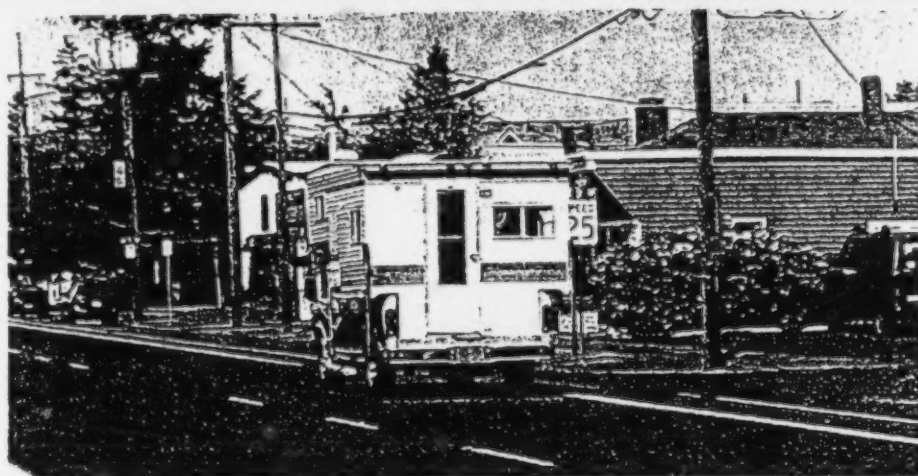
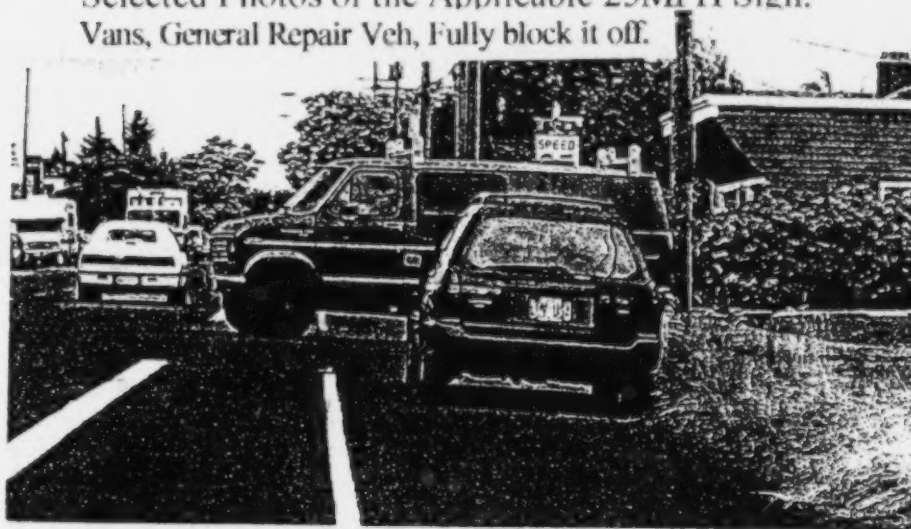
What a driver normally sees of the 25MPH sign on a typical morning in September-October-November.



APPENDIX L

Selected Photos of the Applicable 25MPH Sign.

Vans, General Repair Veh, Fully block it off.



APPENDIX M

ORCP RULE 64, RETRIALS

In an action tried without a jury, a former judgment may be set aside and a new trial granted on motion of the party aggrieved on any grounds set forth in Section B of this rule where applicable. On a motion for a new trial in an action tried without a jury, the court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new Judgment. Section B of this rule grants grounds as follows:

B(1) Irregularity in the proceedings of the court by which such party was prevented from having fair trial.

B(2) Misconduct of the jury or prevailing party.

B(3) Accident or surprise which ordinary prudence could not have guarded against.

B(4) Newly discovered evidence material for the party making the application which such party could not with reasonable diligence have discovered & produced at the trial.

B(5) Insufficiency of the evidence to justify the verdict or other decision or that it is against the law.

B(6) Error in law occurring at the trial and objected to or excepted to by the party making the application.

APPENDIX N

ORS 810.250 Legibility of Traffic Control Device

(1) A person shall not be convicted of violating a Provision of the vehicle code for which an official traffic control device is required if the device is not in proper position and legible to a reasonably observant person at the time and place of the alleged violation.

(2) Whenever a particular section of the vehicle code does not state that traffic control devices are required, the section is effective even though no devices are erected or in place. .

(3) When a traffic control device is placed in position approximately conforming to the requirements of the traffic regulations or other laws of this state, the device is presumed to have been placed by an official act or at the direction of lawful authority unless the contrary is established by competent evidence.

(4) When a traffic control device placed under the vehicle code or other laws or regulations of this state and purporting to conform to the lawful requirements pertaining to that device is presumed to comply with the requirements of the vehicle code unless the contrary is established by competent evidence (1983 c??? 167

APPENDIX O

Added comments by Petitioner

1, In weighing this case, Petitioner ASKS that Your Honors of The Court, PLEASE understand that this case is an important matter of JUSTICE to me and the many thousands of citizens who were collectively duped out of "millions" or revenue dollars by our local government. And then had to also pay the increased auto insurance premiums that fell out of those unconstitutional convictions.

2. Moreover, in weighing the overwhelming evidence that is in favor of Petitioner, and the adverse court actions that followed; Petitioner is strong of the opinion that the two (2) Federal courts in question have ruled adversely against him in contradiction of their judicial mandates. Two (2) key reasons apply. These are:

a. Petitioner is NOT an attorney. and they do not want NON attorneys "Meddling" in "Attorney Turf."

b. But even more importantly, Petitioner very strongly suspicions that the Judges are adversely ruling against him because he, Petitioner Holst, has cited Presiding Judge Koch of Oregon's 4th Circuit as a defendant. And they wish to protect him. Yes, Respondent Judy C. Lucas, Oregon's assistant Attorney General who defends Presiding Judge Koch, cites the 11th U.S. Amendment as Judge Koch's defense. But I, citizen respondent, see the intent of that Amendment much differently. I.e., Yes, judges should be protected from lawsuits against their decisions as "sitting judges." But they certainly should NOT be protected when they so cavalierishly wreak money from people's pockets via COURT

actions that were KNOWINGLY unconstitutional from the start. Thus, if Judge KOCH is NOT ultimately responsible for those unconstitutional affronts against we citizen's Civil Rights; then who is? And, how does any authority improve judicial performance if judges have NOT been brought to task when they have so PURPOSELY FLAUNTED their authority by design? Other U.S. citizens sure have to answer for their transgressions when they "go wrong." So why are Mayors and Judges any different?

3. In short, Petitioner is NOT guilty of the offense as alleged. He was unconstitutionally convicted. And he feels GROSSLY short changed. All three courts in question did NOT uphold their judicial mandates under our existing state and national laws. Hence Petitioner seeks redress through whatever forms of justice your Honors of this Supreme Court deem appropriate. And from Petitioner's many conversations with other drivers similarly offended, he KNOWS they feel the same. So, in this citizen's pursuit of JUSTICE, PLEASE do NOT let those two leaders get away with this.

CERTIFICATE OF FILING

I certify that I have mailed 40 copies of this PETITION FOR A WRIT OF CERTIORARI to the UNITED STATES SUPREME COURT by Certified First Class U.S. Mail, and addressed as indicated directly below, on 1-26-06 in a package addressed to:

THE UNITED STATES SUPREME COURT
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WASHINGTON, D.C. 20543

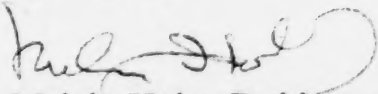


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